

Military Deposits Under USERRA

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Agenda

Define Major Provisions of USERRA & Affects on Employees

Review Creditable Military Service

Discuss USERRA Deposit Rules, Requirements & Deposit Costs

Explain Interest Accrual Dates

Counseling Employees

Forms

Questions & Answers



Absent-US Definition

ABSENT-Uniformed Service

- ➤ When an employee is absent to perform duty with the uniformed services and has reemployment rights under USERRA 38 U.S.C. Chapter 43
- ➤ NOAC 473; Authority Code Q3K or Q3K and QRD
 - Service is not qualifying for reservist differential provision in 5 U.S.C. 5538; 5 CFR Part 353
 - Service is qualifying for reservist differential provision in 5 U.S.C. 5538 (i.e., service is qualifying regardless of whether differential is actually payable)



USERRA Purpose

- ➤ Protects reemployment rights of non-career and career Veterans, Reservists and National Guard Members
- Prohibits an agency from discrimination against or taking reprisal against an applicant or employee because of his application, membership, or service in the uniformed services
- Prohibits employment discrimination on basis of past, present or future military obligations



Public Law (P.L.) 103-353

- Signed by President Clinton October 13, 1994
- Completely rewrote Chapter 43 of title 38, U.S.C.
- Made many changes affecting provisions, rights, and effects on benefits / service credit deposits lesser of the two
- Made certain National Guard service creditable for the first time and allowed service credit with military deposit
- ➤ Includes interrupted service followed by reemployment in civilian service on or after August 1, 1990 (RTD)



Historical Facts Prior to USERRA

Prior To December 12, 1994

- Employee's Agency Status:
 - Separation-US or LWOP
- > Creditable Service Under 6 Month Rule
- No Service Credit Provided for National Guard
 - (Even if Employee Returned to Duty)
- No Military Service Deposit Allowed



Basic USERRA Protections

- USERRA Protections Apply To All Employees:
 - In a permanent, temporary, part-time, probationary, or seasonal employment position
 - On a time-limited appointment with entitlement to complete any unexpired portion of his/her appointment upon reemployment.

NOTE: If military service extends beyond the appointment not-to-exceed date, the employee is not eligible for reemployment.



Basic USERRA Protections

- Prohibits Discrimination Against:
 - Initial Hiring
 - Promotions
 - Retention In Employment
 - Any Employment Advantage



- Reduction In Force (RIF) while on active duty
- > Ensures Benefits During Active Duty Service
- Provides Prompt Restoration To Duty & Benefits Reinstatement
 - Up To 5 Year Cumulative Total For Reemployment Rights



Basic USERRA Protections

- Provides that a person alleging a violation may file a complaint with:
 - The Department of Labor Veterans' Employment and Training Service (DOL/VETS)
 - Merit Systems Protection Board (MSPB)
- ➤ Assistance is also available from the Employer Support of the Guard and Reserve (ESGR)



Creditable Military Service

All Armed Forces Service Voluntary or Involuntary

- Army
- Navy
- Air Force
- Marine Corps
- Coast Guard
- Regular Corps or Reserve Corps of the Public Health Service (service was performed after June 30, 1960)
- Commissioned Officer of NOAA (service was performed after June 30, 1961

Other Service Creditable As Military Service

- U.S. Naval Academy Midshipman
- U.S. Military Academy Cadet
- U.S. Air Force Academy Cadet
- U.S. Coast Guard Academy Cadet
- Naval Reserve Officers Training Corps (NROTC)
- Army Reserve Officers
 Training Corps (AROTC)
- National Guard Service



Honorable Discharge Required

Creditable

- Under Honorable Conditions:
- Separation Because of Hardship
- Transfer to Retired List Because of Age or Disability
- Transfer to Fleet Reserve
- Furlough to Reserve Forces
- General Discharge (Under Honorable Conditions)
- Death In Action

Not Creditable

- Dishonorable Discharge
- Under Less Than
 Honorable Conditions or
 Other Than Honorable
- Undesirable
- Bad conduct
- Unfitness
- Desertion
- AWOL (Lost Time)
- Inactive Duty Training (IDT)



Title 32 Non-Creditable Service

- National Guard Service that precedes Federal Civilian Service
- Service that did not meet all requirements under P.L. 103-353 and
 - was not followed by reemployment within the 5-year limit that may have occurred on or after August 1, 1990



Retired Military Service

Military service for which employees are in receipt of Military Retired Pay is **NOT** creditable unless:

- Receiving Combat Incurred Disability Pay
- Receiving Reserve Retired Pay Under Chapter 67 (Sections 12731-12739, Title 10)
- Service not used in computation of military retired pay
- Employee submits a waiver of military retired pay at the time of civilian service retirement

Note: Employee can receive credit on the civilian side and continue to receive military retired pay until retirement from civilian service



Military Deposits

Individuals who performed military service on or before December 31, 1956, receive full credit for this service under CSRS and FERS. No deposit is required; *it's free*.





Military Service Deposits

- Two calculations are required <u>ONLY</u> when employee exercises their restoration rights
- Employee pays lesser of:
 - CSRS: 7% of the military base pay received or 7% of what the civilian earnings would have been*
 - CSRS Offset: 7% of the military base pay received or .8% of what the civilian earnings would have been
 - FERS: 3% of the military base pay received or .8% of what the civilian earnings would have been*
 - FERS-RAE: 3% or 3.1% & FERS-FRAE: 3% or 4.4%

*Note: Percentages may vary depending on the dates of service

* Interest Rate Exception: 1999 & 2000

Plus Interest



Impact on Retirement

If Separation-US or Absent-US under Title 10 & Title 32 with proper restoration; then creditable service applies if:

CSRS hired prior to 10/01/1982

Time is creditable without deposit required (subject to Catch-62)

CSRS hired on/after 10/01/1982 or FERS

Time only creditable if military deposit paid (FERS always pay to play)



CSRS - "Catch-62"

- > First Hired Under CSRS Prior to 10-01-1982
- Eligible for Social Security at age 62
- Military Deposit Not Paid
- Results = Recalculation of Annuity Minus Military Service (occurs at age 62)

Note: Reduction will occur at age 62 whether the retiree applies for Social Security benefits or not.



CSRS – Post-1956 Military Service Credit

First Hired Under CSRS Prior To October 01, 1982

Eligible For Social Security Age 62

Pay Post-1956 Military Service Deposit For Credit After Age 62 First Hired Under CSRS Prior To October 01, 1982

Not Eligible For Social Security

No Post-1956 Payment Required

First Hired Under CSRS After October 01, 1982

Must Pay Post-1956 To Receive Credit at Time of Retirement



CSRS – Military Service Example



Name: Amy Zinger

Retirement system: CSRS (25 years)

Military Service: U.S. Navy 3yrs 0mos 0days

High-3 average salary: \$30,000

Deposit amount: \$2,500 **Social Security credits:** 44

CSRS – Military Service Example

Total Creditable Service:

25 Years of Service (CSRS)

+ 3 years U.S. Navy

= 28 years

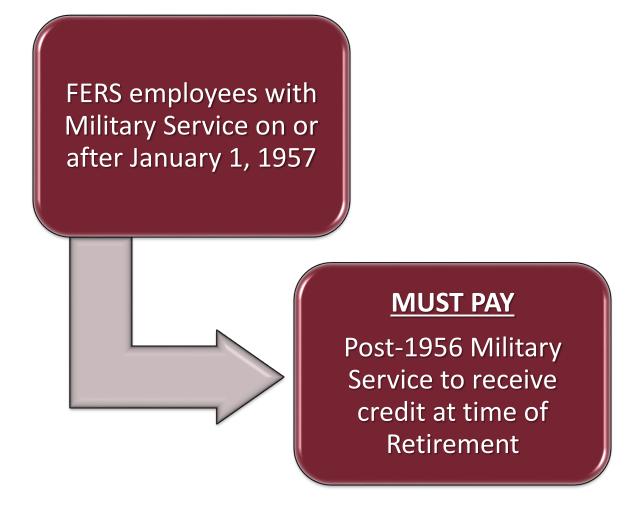
52% of \$30,000 (High 3) = \$15,600 per year or \$1,300 per month

Amy's annuity will continue until age 62.

If Amy's military deposit is **NOT** paid, OPM will recalculate her annuity subtracting the 3 years of her military service.



FERS – Post-56 Military Service Credit





FERS – Military Service Example



Name: Louie Armstrong

Retirement system: FERS (11 years)

Military Service: U.S. Air Force 5yrs 0mos 0days

High-3 average salary: \$30,000

Deposit amount: \$3,000

FERS – Military Service Example

Total Creditable Service with deposit:

11 Years of Service (FERS)

- + 5 years U.S. Navy
- = 16 years

16% of \$30,000 (High 3) = \$4,800 per year or \$400 per month

With deposit Louie's annuity increased by \$1,500 annually



FERS – Military Service Example

Total Creditable Service:

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11 Years of Service (FERS)
= 11 years
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11% of \$30,000 (High 3) = \$3,300 per year or \$275 per month

Under FERS rules if **Louie's military deposit is <u>NOT</u> paid he** will only receive credit for his FERS civilian service.

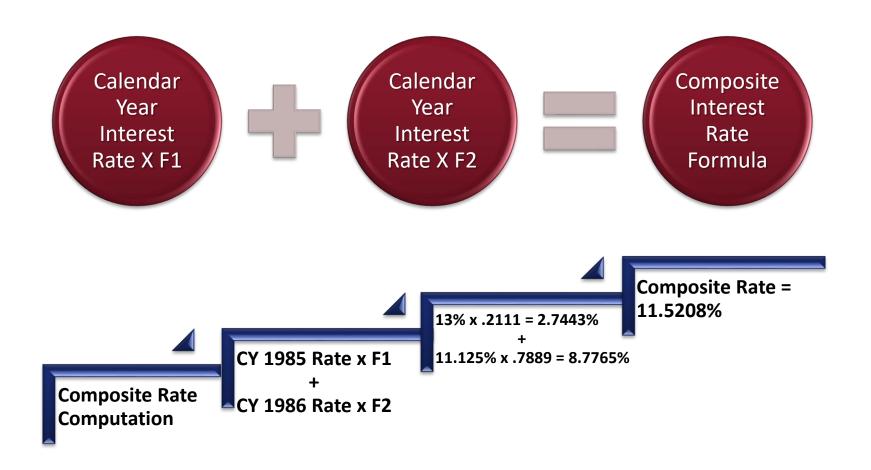


Interest Accrual on Military Service Deposits

- 2-year interest free period to make a deposit for periods of military service
- Interest free period begins when the employee returns to duty and ends 3 years from that date known as the Interest Accrual Date (IAD)
- Interest is added to any remaining unpaid balance on every IAD anniversary date until the deposit is paid in full
- > Interest rates are computed based on a calendar year; therefore
- Two interest rates may apply since interest accrual periods usually do not coincide



Composite Interest Rate





Interest Accrual Dates Example



Employee: Active duty service (08/17/2009 - 08/17/2012)

Returns to covered position on **08/19/2012**

IAD: 08/19/2015

HR Specialist: Employee's IAD is established as 08/19/2015 because it is the date the employee returned to his/her covered position. On the IAD of **08/19/2015** one year of interest will be added to the employee's unpaid balance.

Human Resources Responsibilities

Counseling Employees

Counsel Employees on:

- Deposit Options
- Provide Two Calculations
- Review Best Options & Deposit Requirements

Counseling Employees

- Upon Notification, Request Supporting Documentation (if possible)
- Use Uniformed Service Checklist
- ➤ Review Restoration Rights
 - Time Limits
 - Notification Process



Refunds of Military Deposit

Military Deposits are not refundable unless:

- Deposit was made in error (service is not creditable)
- Waiver of Military Retired Pay not submitted
- Deposit is not made/incomplete



Military Service Deposit Process

- ➤ Employee obtains record of military estimated earnings by completing and submitting the Form RI 20-97
- ➤ Employee applies by completing a SF 2803A OR SF 3108A
- Employee makes payments to agency (DFAS Payroll)
- Deposit must be paid in full at agency before retirement



Required Documents

ALL Documents Must Include

- Rank
- Type of Service (Title 10)
- Character of Discharge
- Lost Time
- Beginning & End Dates of Service



Required Documents

Documents Accepted For Computing Earnings

- DD Form 214 (Most Common)
- Letter from the Military Academy
- Academic Record of Classes
- Any Official Letter on Agency/Unit Letterhead
- NA Form 13038 Certification of Military
- AF Form 1613, Statement of Service
- NA Form 13041
- NA Form 13072
- NA Form13165



RI 20-97 Estimated Earnings

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Standard Form 2803

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Standard Form 2803A

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Standard Form 3108

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ieral Employees irement System	1. F 2. T 3. C	avoid a delay in proce Read the attached inford Type or print in ink. Complete Part A in full. I lave your employing ag	mation carefully. If you are currer	ntly a Federal e	employee,			
	Part	A. To be Complet	ed by the A	pplicant				
Name (Last, first, middle)			2. List other na	ames you have u	ised		3. Bir	rthdate (mm/dd/yyyy)
Address (Number and street)				or agency in wh ireau, branch, or		last employed,	, 6. So	ocial Security Number
(City, state and ZIP Code)			7. Location of	employment (cit	y and state)		8. Tit	le of position
Have you previously filed any application under or the Civil Service Retirement System (CSRS) Yes, complete items 9a and 9b I am applying to make a service credit paymer List below in chronological order all periods of	No No Civilian Serv	rice (Complete item 10)	Return Military	credit payment of excess deduc Service (Go to i	tem 11)	Refund Retiremen	t	aim number(s) [if availabl
Department or Agency (including bureau, branch or division where employed)	Location of Employment (city and state)	Title of Position		of Service	Check wh	ether deduction withheld and re and remain to y	ns were not efunded, or	Put a check mark () in the boxes below, ner to the periods of servic you want to pay for. (If you do not want to pay</td
			Beginning Date (mm/dd/yyyy)	Ending Date (mm/dd/yyyy)	Not Withheld	Withheld and Refunded	Withheld and Not Refunded	for a specific period of service, leave the box blank.)
	tirement System now being w	ithheld from your salary?	12. Give the day	te of separation			Date of separa	ation (mm/dd/yyyy)
. Are deductions for the Federal Employees Ref			Retirement					
Are deductions for the Federal Employees Ref Yes (Go to item 13) Signature of applicant	No (Go to item 12)		14. Telephone r	•		15. E-mail ad		16. Date (mm/dd/yyyy)



Standard Form 3108A

leposit in full before the se imployee's Name	eparation on wh	ich your rettre		mm/dd/yyy		10	
mployee's Name			Date of Birth	(mm/dd/yyyy)	Social Secu	rity Number
. Information About En	nployee's Milita	ry Service					
To Be Compl	leted By Employee		Agenc	y Use Only	(To Be Cor	npleted By	Agency HR Office)
Branch of Military		of Service	Rules T to the	nt System hat Apply Service ropriate box)	Calculat USERR	native Deposit tion Under A Apply? propriate box)	Interest Accrual Date (IAD)
	Beginning Date (mm/dd/yyyy)	Ending Date (mm/dd/yyyy)	CSRS	FERS	Yes	No	(mm/dd/yyyy)
	+						
			Certificatio	n: The inform	ation entered	above is bas	ed on official records of
			this agency Agency Offi	and is correct cial Signature			Date (mm/dd/yyyy)
	ition where deductio		Employees	Retirement S	ystem (FEF	RS) are being	g deducted from my
alary, and I wish to pay the depo eposit to my employing agency etirement if I am eligible for and eposits made to the Fund will be omplete the deposit in full, I und	ition where deduction osit necessary to ob- before separation for elect an alternative erefunded to me alcongress and that it can observe the control of the	ns for the Federal tain credit for my n retirement. I fun annuity. If I do ele ong with any other	Employees inilitary service ther understand the alternate retirement of	Retirement See after 1956 and that the lative annuity ontributions	System (FER I understa military depo upon retire or payments	RS) are being and that I mu osit cannot b ment, any co s I made to ti	g deducted from my st pay the entire e deemed paid at ompleted military he Fund. Once I
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Summary

Defined Major Provisions of USERRA & Affects on Employees

Reviewed Creditable Military Service

Discussed USERRA Deposit Rules, Requirements & Deposit Costs

Explained Interest Accrual Dates

Counseling Employees

Forms

Questions & Answers



Military Deposits Under USERRA





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